

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	GILLES et al.	Confirmation No.:	4465
Serial No.:	10/523,444	Art Unit:	1644
371(c) Date:	January 31, 2005	Examiner:	M. E. SZPERKA
Patent No.:	7,582,296 B2	Customer No.:	21559
Issued:	September 1, 2009		
Title:	ANTI-IDIOTYPIC ANTIBODIES AGAINST FACTOR VIII INHIBITOR AND USES THEREOF		

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

In response to the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) set forth in the Issue Notification issued in connection with the above-captioned patent application on August 12, 2009, and as set forth on the cover of U.S. Patent No. 7,582,296 B2 (“the ‘296 patent”), issued September 1, 2009, Applicants hereby request reconsideration of the patent term adjustment. Applicants submit that the current patent term adjustment should be 545 days, not 236 days as shown in the Patent Term Adjustment History on the PAIR system (Exhibit A).

Background Law and Rules

35 U.S.C. § 154(b)(1)(A) states:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to-

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after-

the date on which an application was filed under section 111(a) of this title; or

the date on which an international application fulfilled the

requirements of section 371 of this title;

(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

* * *

the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

Corresponding provisions are found in 37 C.F.R. §§ 1.702(a), and 1.703(a). Applicants refer to Office delay under 35 U.S.C. § 154(b)(1)(A), and the corresponding rules, as “A delay.”

35 U.S.C. § 154(b)(1)(B) states:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including-

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

* * *

the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

Corresponding provisions are found in 37 C.F.R. §§ 1.702(b) and 1.703(b). Applicants refer to Office delay under 35 U.S.C. § 154(b)(1)(B), and the corresponding rules, as “B delay.”

35 U.S.C. § 154(b)(2)(A) states (emphasis added):

To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

A corresponding provision is found in 37 C.F.R. § 1.703(f).

The Office has explained its interpretation of the “overlap” provisions of 35 U.S.C. § 154(b)(2)(A) and 37 C.F.R. § 1.703(f) as follows (emphasis added):

[T]he Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), **the entire period during which the application was pending before the Office** (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, **is the relevant period under 35 U.S.C. 154 (b)(1)(B) in determining whether periods of delay “overlap” under 35 U.S.C. 154(b)(2)(A).**

Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office

Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283, 34283 (Jun. 21, 2004).

However, the Office’s interpretation was recently rejected by the U.S. District Court for the District of Columbia, which stated (emphasis added in bold; original emphasis in italics):

The operative question under 35 U.S.C. § 154(b)(2)(A) is whether “periods of delay attributable to grounds specified in paragraph (1) overlap.” **The only way that periods of time can “overlap” is if they occur on the same day. If an “A delay” occurs on one calendar day and a “B delay” occurs on another, they do not overlap, and § 154(b)(2)(A) does not limit the extension to one day.** Recognizing this, the PTO defends its interpretation as essentially running the “period of delay” under sub-section (B) from the filing date of the patent application, such that a period of “B delay” *always overlaps* with any periods of “A delay” for the purposes of applying § 154(b)(2)(A).

The problem with the PTO’s construction is that it considers the application *delayed* under § 154(b)(1)(B) during the period *before it has been delayed*. That construction cannot be squared with the language of § 154(b)(1)(B), which applies “if the issue of an original patent is *delayed* due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years.” (Emphasis added.) “B delay” begins when the

PTO has failed to issue a patent within three years, not before.

Wyeth v. Dudas, No. 07-1492 (JR), 2008 U.S. Dist. LEXIS 76063, at *3 (D.D.C. Sep. 30, 2008).

Accordingly, Applicants submit that, where A delay occurs entirely before the three-year date, and thus does not overlap the period of B delay, the periods of A delay and B delay are not to be considered overlapping under § 154(b)(2)(A), but rather must be added together to determine the overall Office delay.

The '296 Patent

A Delay

The '296 patent issued on an application filed on January 31, 2005, and a Restriction Requirement was mailed by the Office on May 24, 2007, which is 419 days past the 14-month date of January 15, 2004, consistent with the determination shown in Exhibit A. Applicants agree with the Office's determination of 419 days of A delay due to Office delays.

Applicants also agree with the Office's determination of 91 and 32 days of A delay due to Applicant's delay in filing a reply to the September 4, 2007 and June 4, 2008 Office Actions, respectively. Applicants disagree with the Office's determination of 60 days of further Applicant A delay apparently associated with the filing of a paper after the mailing of the Notice of Allowance. Applicants note that Exhibit A lists an Information Disclosure Statement (IDS) as having been filed on June 17, 2009, after the mailing of a Notice of Allowance, and that 60 days of delay are attributed to Applicants for filing papers after the mailing of a Notice of Allowance. Applicants only filed an IDS and the issue fee payment after the mailing of the Notice of Allowance.

Applicants submit that the June 17, 2009 IDS filing does not constitute Applicant delay under 37 C.F.R. § 1.704(d), which states:

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of

the application ... if it is accompanied by a statement that each item of [the] information disclosure statement was cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

The item of information in the June 17th IDS filing was an Office Action from a corresponding foreign application dated May 22, 2009, which is less than 30 days prior to the June 17, 2009 filing of the IDS. Enclosed as Exhibit B is a copy of the Image File Wrapper Bibliographic Data from the PAIR system. The transmittal letter and Form PTO-1449 for the IDS dated June 17, 2009 are enclosed as Exhibit C. As shown in Exhibit C, the transmittal letter for the June 17th IDS included a statement that “the item of information in this statement is a communication from a foreign patent office in a counterpart foreign application, dated May 22, 2009, which is not more than three months prior to the filing of this statement.” The communication, being dated May 22, 2009, was not received by an individual designated under 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of the June 17th IDS. The Office, in a communication dated June 29, 2009 (copy enclosed as Exhibit D) states that the June 17th IDS was in compliance with 37 C.F.R. § 1.97 and has been considered by the Examiner. Applicants submit that the June 17th IDS should not be considered a failure to engage in reasonable efforts to conclude prosecution and that any Applicant delay shown in Exhibit A for this filing are in error.

Further, even if the Office does not consider the June 17th IDS to have been in compliance with the requirements of 37 C.F.R. § 1.704(d), the delay attributable to Applicants for this filing is at most 13 days, not 60 days. Applicants note that 37 C.F.R. § 1.704(c)(10) states:

Submission of an amendment under §1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in §1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under §1.312 or other paper was filed and ending on the mailing date of the

Office action or notice in response to the amendment under §1.312 or such other paper; or
(ii) Four months.

Here the IDS was filed on June 17, 2009 and the Office mailed a response on June 29, 2009, or 13 days later, stating that the IDS has been considered. As such, no more than 13 days of delay are attributable to Applicants for the filing of the IDS. The only other papers filed by Applicants after the mailing of the Notice of Allowance were the issue fee payment and its transmittal letter on July 17, 2009 (copies enclosed as Exhibit E), which, clearly also do not constitute a failure of Applicants to engage in reasonable efforts to conclude prosecution.

In short, Applicants submit that the Office's determination of the patent term adjustment due to the filing of the June 17, 2009 IDS is in error and that Applicants' delay attributable to this filing is at most 13 days and, in fact, under 37 C.F.R. § 1.704(d), no delay is attributable to Applicants for this filing. Moreover, while the transmittal letter for the issue fee payment is characterized as a "Miscellaneous Incoming Letter" in the Image File Wrapper, this paper, as is evident from Exhibit E, was part of the issue fee payment and should not be considered a paper encompassed by 37 C.F.R. § 1.704(c)(10).

B Delay

Under 37 C.F.R. §§ 1.702(b) and 1.703(b), the time interval between the date that is three years from filing of the application and the filing of a Request for Continued Examination counts as B delay. In this case, the three-year date was January 31, 2008, and the Request for Continued Examination (RCE) was filed on October 6, 2008, or 249 days later.

As is discussed above, when the periods of A delay and B delay do not overlap, Applicants are entitled to both periods of delay. Here, 419 days of A delay were incurred by the Office before the January 31, 2008 beginning of the period of B delay and, therefore, these 419 days are non-overlapping with the B delay. Applicants are entitled, under U.S.C. § 154(b)(2)(A) and 37 C.F.R. § 1.703(f), to the sum of these periods in the

patent term adjustment calculation.

Summary

Applicants conclude that the Office delay associated with the '296 patent is 419 days (A delay) + 249 days (B delay) = 668 days, while the Applicant delay is 123 days (not including the 60 days asserted by the Office to have been incurred after the mailing of a Notice of Allowance). Thus, the '296 patent is entitled to a total of $668 - 123 = 545$ days of patent term adjustment under 37 C.F.R. § 1.703. Applicants request that the patent term adjustment determination be corrected accordingly.

The present patent is not subject to a Terminal Disclaimer.

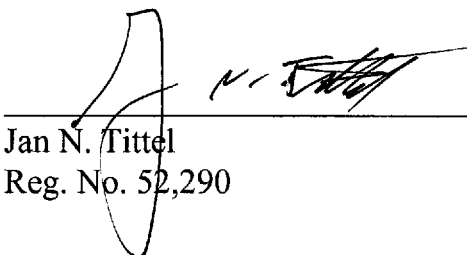
CONCLUSION

Applicants submit that the current patent term adjustment should be 545 days and hereby request reconsideration of the patent term adjustment.

Transmitted herewith is \$200.00 in payment of the fee set forth in 37 C.F.R. § 1.18(e). If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 2 November 2009



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Exhibit A

10/523,444	ANTI-IDIOTYPIC ANTIBODIES AGAINST FACTOR VIII INHIBITOR AND USES THEREOF	11-02- 2009::10:01:00
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/523,444

Filing or 371(c) Date:	01-31-2005	USPTO Delay (PTO) Delay (days):	419
Issue Date of Patent:	09-01-2009	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	183
Post-Issue Petitions (days):	+0	Total PTA (days):	236
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
08-12-2009	PTA 36 Months		
09-01-2009	Patent Issue Date Used in PTA Calculation		
07-24-2009	Dispatch to FDC		
07-23-2009	Application Is Considered Ready for Issue		
07-17-2009	Miscellaneous Incoming Letter		47
07-17-2009	Issue Fee Payment Verified		⬆
07-17-2009	Issue Fee Payment Received		⬆
06-29-2009	Email Notification		⬆
06-29-2009	Mail Miscellaneous Communication to Applicant		⬆
06-22-2009	TC Return to Pubs		
06-22-2009	Miscellaneous Communication to Applicant - No Action Count		
06-17-2009	Information Disclosure Statement considered		
06-17-2009	Information Disclosure Statement (IDS) Filed		13
06-17-2009	Information Disclosure Statement (IDS) Filed		
05-29-2009	Sequence Forwarded to Pubs on Tape		
05-19-2009	Mail Notice of Allowance		
05-15-2009	Notice of Allowance Data Verification Completed		
05-15-2009	Case Docketed to Examiner in GAU		
05-15-2008	Document Verification		
04-01-2009	Date Forwarded to Examiner		
03-12-2009	Response after Non-Final Action		
12-24-2008	Electronic Review		
12-24-2008	Email Notification		
12-24-2008	Mail Non-Final Rejection		
12-19-2008	Non-Final Rejection		
10-30-2008	Date Forwarded to Examiner		
10-30-2008	Date Forwarded to Examiner		
10-06-2008	Request for Continued Examination (RCE)		32
10-30-2008	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		⬆
10-06-2008	Request for Extension of Time - Granted		⬆

10-09-2008	Email Notification	⬆
10-06-2008	Workflow - Request for RCE - Begin	⬆
10-08-2008	Mail Advisory Action (PTOL - 303)	⬆
09-30-2008	Advisory Action (PTOL-303)	⬆
09-17-2008	Date Forwarded to Examiner	⬆
09-04-2008	Amendment after Final Rejection	⬆
06-05-2008	Electronic Review	⬆
06-04-2008	Email Notification	⬆
06-04-2008	Mail Final Rejection (PTOL - 326)	⬆
06-02-2008	Final Rejection	
03-04-2008	Miscellaneous Incoming Letter	
03-27-2008	Date Forwarded to Examiner	
03-04-2008	Response after Non-Final Action	91
03-04-2008	Request for Extension of Time - Granted	⬆
09-04-2007	Mail Non-Final Rejection	⬆
08-30-2007	Non-Final Rejection	
10-27-2006	Information Disclosure Statement considered	
09-18-2006	Information Disclosure Statement considered	
01-31-2005	Information Disclosure Statement considered	
06-28-2007	Date Forwarded to Examiner	
06-25-2007	Response to Election / Restriction Filed	
05-24-2007	Mail Restriction Requirement	419
05-23-2007	Requirement for Restriction / Election	⬆
10-27-2006	Electronic Information Disclosure Statement	⬆
10-27-2006	Information Disclosure Statement (IDS) Filed	⬆
09-18-2006	Information Disclosure Statement (IDS) Filed	⬆
09-18-2006	Information Disclosure Statement (IDS) Filed	⬆
09-02-2006	IFW TSS Processing by Tech Center Complete	⬆
09-02-2006	Case Docketed to Examiner in GAU	⬆
01-31-2005	Request for Foreign Priority (Priority Papers May Be Included)	⬆
01-31-2005	Information Disclosure Statement (IDS) Filed	⬆
01-31-2005	Information Disclosure Statement (IDS) Filed	⬆
01-31-2005	Preliminary Amendment	⬆
01-31-2005	371 Completion Date	⬆
07-19-2006	Application Dispatched from OIPE	
07-19-2006	Notice of DO/EO Acceptance Mailed	
05-11-2006	Additional Application Filing Fees	
01-31-2005	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	
05-15-2006	Cleared by OIPE CSR	
04-11-2006	Notice of DO/EO Missing Requirements Mailed	

02-23-2005	CRF Is Good Technically / Entered into Database
01-31-2005	CRF Disk Has Been Received by Preexam / Group / PCT
01-31-2005	Initial Exam Team nn

Close Window

Exhibit B

10/523,444	ANTI-IDIOTYPIC ANTIBODIES AGAINST FACTOR VIII INHIBITOR AND USES THEREOF	11-02- 2009::10:01:34
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Bibliographic Data

Mail Room Date	Document Code	Document Description	Document Category	Page Count
08-13-2009	OA.EMAIL	Email Notification	PROSECUTION	1
08-12-2009	ISSUE.NTF	Issue Notification	PROSECUTION	1
07-17-2009	IFEE	Issue Fee Payment (PTO-85B)	PROSECUTION	1
07-17-2009	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2
07-17-2009	N417	EFS Acknowledgment Receipt	PROSECUTION	2
07-17-2009	TRAN.LET	Transmittal Letter	PROSECUTION	2
06-29-2009	M327	Miscellaneous Communication to Applicant - No Action Count	PROSECUTION	2
06-29-2009	1449	List of References cited by applicant and considered by examiner	PROSECUTION	1
06-29-2009	OA.EMAIL	Email Notification	PROSECUTION	1
06-17-2009	IDS	Information Disclosure Statement (IDS) Filed (SB/08)	PROSECUTION	1
06-17-2009	NPL	NPL Documents	PRIOR ART	2
06-17-2009	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2
06-17-2009	N417	EFS Acknowledgment Receipt	PROSECUTION	2
06-17-2009	TRAN.LET	Transmittal Letter	PROSECUTION	2
05-19-2009	NOA	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	4
05-19-2009	SRNT	Examiner's search strategy and results	PROSECUTION	2
05-19-2009	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
05-19-2009	IIFW	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
05-19-2009	FWCLM	Index of Claims	PROSECUTION	2
05-19-2009	OA.EMAIL	Email Notification	PROSECUTION	1
03-12-2009	A...	Amendment/Req. Reconsideration-After Non- Final Reject	PROSECUTION	1
03-12-2009	CLM	Claims	PROSECUTION	5
03-12-2009	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2
03-12-2009	N417	EFS Acknowledgment Receipt	PROSECUTION	2
03-12-2009	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
03-12-2009	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
12-24-2008	CTNF	Non-Final Rejection	PROSECUTION	6
12-24-2008	892	List of references cited by examiner	PRIOR ART	1
12-24-2008	FWCLM	Index of Claims	PROSECUTION	2
12-24-2008	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
12-24-2008	SRNT	Examiner's search strategy and results	PROSECUTION	2
12-24-2008	NPL	NPL Documents	PRIOR ART	6
12-24-2008	NPL	NPL Documents	PRIOR ART	7
12-24-2008	NPL	NPL Documents	PRIOR ART	7
12-24-2008	OA.EMAIL	Email Notification	PROSECUTION	1
10-09-2008	OA.EMAIL	Email Notification	PROSECUTION	1
10-08-2008	CTAV	Advisory Action (PTOL-303)	PROSECUTION	3
10-06-2008	RCEX	Request for Continued Examination (RCE)	PROSECUTION	2

10-06-2008	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION	1
10-06-2008	CLM	Claims	PROSECUTION	6
10-06-2008	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2
10-06-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2
10-06-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	3
10-06-2008	XT/	Extension of Time	PROSECUTION	2
10-06-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
09-04-2008	A.NE	Amendment After Final	PROSECUTION	1
09-04-2008	CLM	Claims	PROSECUTION	6
09-04-2008	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	3
09-04-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	2
09-04-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
09-04-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
06-04-2008	CTFR	Final Rejection	PROSECUTION	10
06-04-2008	FWCLM	Index of Claims	PROSECUTION	2
06-04-2008	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
06-04-2008	SRNT	Examiner's search strategy and results	PROSECUTION	2
06-04-2008	SRNT	Examiner's search strategy and results	PROSECUTION	1
06-04-2008	OA.EMAIL	Email Notification	PROSECUTION	1
03-04-2008	A...	Amendment/Req. Reconsideration-After Non-Final Reject	PROSECUTION	1
03-04-2008	CLM	Claims	PROSECUTION	5
03-04-2008	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	8
03-04-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2
03-04-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	3
03-04-2008	XT/	Extension of Time	PROSECUTION	2
03-04-2008	LET.	Miscellaneous Incoming Letter	PROSECUTION	2
03-04-2008	NPL	NPL Documents	PRIOR ART	5
03-04-2008	NPL	NPL Documents	PRIOR ART	86
03-04-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
09-04-2007	CTNF	Non-Final Rejection	PROSECUTION	12
09-04-2007	1449	List of References cited by applicant and considered by examiner	PRIOR ART	5
09-04-2007	892	List of references cited by examiner	PRIOR ART	1
09-04-2007	NPL	NPL Documents	PRIOR ART	7
09-04-2007	NPL	NPL Documents	PRIOR ART	5
09-04-2007	BIB	Bibliographic Data Sheet	PROSECUTION	1
09-04-2007	FWCLM	Index of Claims	PROSECUTION	1
09-04-2007	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
08-29-2007	SRNT	Examiner's search strategy and results	PROSECUTION	3
06-25-2007	ELC.	Response to Election / Restriction Filed	PROSECUTION	2
06-25-2007	136A	Authorization for Extension of Time all replies	PROSECUTION	2
06-25-2007	N417	EFS Acknowledgment Receipt	PROSECUTION	2
05-24-2007	CTRS	Requirement for Restriction/Election	PROSECUTION	7
05-24-2007	892	List of references cited by examiner	PRIOR ART	1
05-24-2007	FOR	Foreign Reference	PRIOR ART	34
05-24-2007	FWCLM	Index of Claims	PROSECUTION	1
10-27-2006	TRAN.LET	Transmittal Letter	PROSECUTION	2

Information Disclosure Statement (IDS) Filed

10-27-2006	IDS	(SB/08)	PROSECUTION	4
10-27-2006	NPL	NPL Documents	PRIOR ART	11
10-27-2006	NPL	NPL Documents	PRIOR ART	4
10-27-2006	NPL	NPL Documents	PRIOR ART	8
10-27-2006	N417	EFS Acknowledgment Receipt	PROSECUTION	2
09-18-2006	IDS	Information Disclosure Statement (IDS) Filed (SB/08)	PROSECUTION	4
09-18-2006	FOR	Foreign Reference	PRIOR ART	62
09-18-2006	FOR	Foreign Reference	PRIOR ART	55
09-18-2006	NPL	NPL Documents	PRIOR ART	5
09-18-2006	NPL	NPL Documents	PRIOR ART	2
09-18-2006	NPL	NPL Documents	PRIOR ART	11
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09-18-2006	NPL	NPL Documents	PRIOR ART	8
09-18-2006	NPL	NPL Documents	PRIOR ART	9
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09-18-2006	NPL	NPL Documents	PRIOR ART	7
09-18-2006	NPL	NPL Documents	PRIOR ART	5
09-18-2006	NPL	NPL Documents	PRIOR ART	11
09-18-2006	NPL	NPL Documents	PRIOR ART	4
09-18-2006	NPL	NPL Documents	PRIOR ART	9
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09-18-2006	NPL	NPL Documents	PRIOR ART	7
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09-18-2006	NPL	NPL Documents	PRIOR ART	2
09-18-2006	NPL	NPL Documents	PRIOR ART	4
07-19-2006	M903	Notice of DO/EO Acceptance Mailed	PROSECUTION	2
05-11-2006	PEFR	Applicant Response to Pre-Exam Formalities Notice	PROSECUTION	3
05-11-2006	OATH	Oath or Declaration filed	PROSECUTION	2
05-11-2006	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2
05-11-2006	N417	EFS Acknowledgment Receipt	PROSECUTION	2
05-11-2006	IMIS	Miscellaneous Internal Document	PROSECUTION	1
05-11-2006	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
05-11-2006	ABST	Abstract	PROSECUTION	1
04-11-2006	M905	Notice of DO/EO Missing Requirements Mailed	PROSECUTION	2
02-17-2005	CRFL	CRF Sequence Listing Filed	PROSECUTION	7
01-31-2005	TRNA	Transmittal of New Application	PROSECUTION	2
01-31-2005	SPEC	Specification	PROSECUTION	39
01-31-2005	CLM	Claims	PROSECUTION	3
01-31-2005	ABST	Abstract	PROSECUTION	2
01-31-2005	DRW	Drawings-only black and white line drawings	PROSECUTION	10
01-31-2005	SEQLIST	Sequence Listing	PROSECUTION	6
01-31-2005	OATH	Oath or Declaration filed	PROSECUTION	2

01-31-2005	IIFW	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
01-31-2005	IMIS	Miscellaneous Internal Document	PROSECUTION	1
01-31-2005	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
01-31-2005	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1
01-31-2005	WCLM	Claims Worksheet (PTO-2022)	PROSECUTION	1
01-31-2005	A.PE	Preliminary Amendment	PROSECUTION	1
01-31-2005	SPEC	Specification	PROSECUTION	1
01-31-2005	CLM	Claims	PROSECUTION	5
01-31-2005	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	1
01-31-2005	IDS	Information Disclosure Statement (IDS) Filed (SB/08)	PROSECUTION	3
01-31-2005	NPL	NPL Documents	PRIOR ART	1
01-31-2005	NPL	NPL Documents	PRIOR ART	1
01-31-2005	NPL	NPL Documents	PRIOR ART	1
01-31-2005	NPL	NPL Documents	PRIOR ART	2
01-31-2005	NPL	NPL Documents	PRIOR ART	1
01-31-2005	NPL	NPL Documents	PRIOR ART	1
01-31-2005	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	41
01-31-2005	ADS	Application Data Sheet	PROSECUTION	4
01-31-2005	CRFS	CRF Statement Paper and CRF are the same	PROSECUTION	2
01-31-2005	SEQLIST	Sequence Listing	PROSECUTION	5
01-31-2005	371P	Documents submitted with 371 Applications	PROSECUTION	6
01-31-2005	371P	Documents submitted with 371 Applications	PROSECUTION	5
01-31-2005	371P	Documents submitted with 371 Applications	PROSECUTION	6
01-31-2005	371P	Documents submitted with 371 Applications	PROSECUTION	16
01-31-2005	371P	Documents submitted with 371 Applications	PROSECUTION	1
01-31-2005	FOR	Foreign Reference	PRIOR ART	68
01-31-2005	NPL	NPL Documents	PRIOR ART	8
01-31-2005	NPL	NPL Documents	PRIOR ART	12
01-31-2005	NPL	NPL Documents	PRIOR ART	6
01-31-2005	NPL	NPL Documents	PRIOR ART	4
01-31-2005	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1

[Close Window](#)

Exhibit C

PATENT
ATTORNEY DOCKET NO. 50304/059001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	GILLES et al.	Confirmation No.:	4465
Serial No.:	10/523,444	Art Unit:	1644
371(c) Date:	January 31, 2005	Examiner:	M. E. Szperka
Customer No.:	21559		
Title:	ANTI-IDIOTYPIC ANTIBODIES AGAINST FACTOR VIII INHIBITOR AND USES THEREOF		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Applicants submit the reference listed on the enclosed Form PTO-1449, a copy of which is enclosed.

Submission of this statement is not a representation that a search has been made, nor is the inclusion of information in this statement an admission that the information is material to patentability.

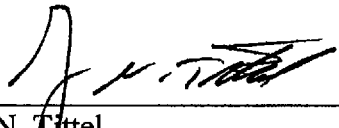
This statement is being filed after the mailing of a final Office Action or a Notice of Allowance, but before payment of the issue fee. I, the undersigned, hereby certify that the item of information in this statement is a communication from a foreign patent office in a counterpart foreign application, dated May 22, 2009, which is not more than three months prior to the filing of this statement. Transmitted herewith is payment in the amount of \$180.00 for the fee set forth in 37 C.F.R. § 1.17(p).

If there are any other charges or any credits, please apply them to Deposit Account

No. 03-2095.

Respectfully submitted,

Date: 17 June 2009



Jan N. Tittel
Reg. No. 52,290

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

SUBSTITUTE FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE (MODIFIED) PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use several sheets if necessary) (37 C.F.R. § 1.98(b))	Attorney Docket No.	50304/059001
	Serial No.	10/523,444
	Applicant	GILLES et al.
	371(c) Date	January 31, 2005
	Group	1644
	IDS Filed	June 17, 2009

U.S. PATENT DOCUMENTS			
Examiner's Initials	Document Number	Publication Date	Patentee or Applicant

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION				
Examiner's Initials	Document Number	Publication Date	Country or Patent Office	Translation (Yes/No)

OTHER DOCUMENTS (INCLUDING AUTHOR, TITLE, DATE, PLACE OF PUBLICATION)	
	Office Action for Canadian Patent Application Number 2,494,698, dated May 22, 2009.

EXAMINER	DATE CONSIDERED
EXAMINER: Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with the next communication to applicant.	

Exhibit D



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,444	01/31/2005	Jean Guy Gilles	50304/059001	4465
21559	7590	06/29/2009		
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			EXAMINER SZPERKA, MICHAEL EDWARD	
			ART UNIT 1644	PAPER NUMBER
			NOTIFICATION DATE 06/29/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10523444	1/31/05	GILLES ET AL.	50304/059001

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER

Michael Szperka

ART UNIT**PAPER**

1644

20090622

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

1. The information disclosure statement (IDS) submitted on June 17, 2009 was filed after the mailing date of the notice of allowance on May 19, 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Szperka whose telephone number is (571)272-2934. The examiner can normally be reached on M-F 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on 571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Szperka, Ph.D.
Primary Examiner
Art Unit 1644

/Michael Szperka/
Primary Examiner, Art Unit 1644

Exhibit E

PATENT
ATTORNEY DOCKET NO. 50304/059001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	GILLES et al.	Confirmation No.:	4465
Serial No.:	10/523,444	Art Unit:	1644
371(c) Date:	January 31, 2005	Examiner:	M. E. Szperka
Customer No.:	21559		
Title:	ANTI-IDIOTYPIC ANTIBODIES AGAINST FACTOR VIII INHIBITOR AND USES THEREOF		

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO NOTICE OF ALLOWANCE AND NOTICE OF ALLOWABILITY

In reply to the Notice of Allowance that was mailed in connection with the above-captioned application on May 19, 2009 and having confirmation number 4465, and the Notice of Allowability that was mailed on May 19, 2009 transmitted herewith are:

A completed fee transmittal form PTOL-85; and

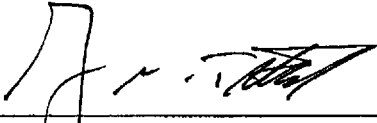
Payment in the amount of \$1085.00 to cover the issue fee required by 37 C.F.R. § 1.18(a) of \$755.00, the publication fee of \$300.00, and the patent copy fee required by 37 C.F.R. § 1.19(a)(1)(i) of \$30.00 for ten patent copies.

If there are any other charges or any credits, please apply them to Deposit Account

No. 03-2095.

Respectfully submitted,

Date: 17 July 2009



Jan N. Tittel
Reg. No. 52,290

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

21.559 7590 05/19/2009

CLARK & ELBING LLP
 101 FEDERAL STREET
 BOSTON, MA 02110

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,444	01/31/2005	Jean Guy Gilles	50304/059001	4465

TITLE OF INVENTION: ANTI-IDIOTYPIC ANTIBODIES AGAINST FACTOR VIII INHIBITOR AND USES THEREOF

APPL. N. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	08/19/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
SZPERKA, MICHAEL EDWARD	1644	424-131100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Clark & Elbing LLP

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

D. Collen Research Foundation VZW

Leuven, Belgium

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☒ Advance Order - # of Copies 10

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

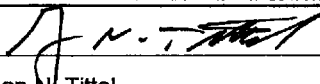
- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 03-2095 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature



Date

17 July 2009

Typed or printed name Jan N. Tittel

Registration No. 52, 290

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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